



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

June 12, 2002

Arthur C. Freund
Licensing & Reporting Analyst
GMAC Mortgage Corporation
100 Witmer Road
P. O. Box 963
Horsham, PA 19044-0963

Dear Mr. Freund:

This letter is in response to your correspondence dated April 4, 2002 to the Division of Banks (the "Division") in which you request an opinion relative to whether the mortgage lender and mortgage broker licenses held by GMAC Mortgage Corporation ("GMAC") would meet all licensing requirements necessary based on fact patterns set forth in your letter.

In your letter you state that GMAC is considering a relationship with a credit card company to act as a third party processor of first and second mortgage loans as well as home equity loans for the purpose of paying off credit card debt. You pose three scenarios and ask if GMAC's mortgage lender and mortgage broker licenses cover these activities.

Your first example sets forth the fact that residential mortgage loans would be funded and closed in the name of the credit card company. It has been the consistent position of the Division that any entity which intends to close five or more residential mortgage loans in a consecutive twelve month period in its own name is required to be licensed as a mortgage lender in the Commonwealth pursuant to chapter 255E. If the mortgage loans described in your letter are to be closed in the name of the credit card company, it would have to obtain a mortgage lender's license from the Division. The mortgage lender's license of GMAC would not cover the credit card company.

Your second fact pattern states that loans would be processed on behalf of the credit card company by GMAC for a fee. GMAC's mortgage broker license covers the activities of GMAC as a mortgage broker which would include the processing of mortgage loans for a fee.



Arthur C. Freund
Page Two
June 12, 2002

Your third question states that GMAC has the option to buy loans and/or obtain the servicing rights to the loans described in your letter. It is the position of the Division that purchasing of existing mortgage loans or the servicing of mortgage loans do not require a mortgage lender or mortgage broker license in the Commonwealth. However, please be advised that if the servicing of mortgage loans includes the collection of payments thirty days past due, a debt collection agency license is required under sections 24 to 28, inclusive, of chapter 93 of the General Laws and the implementing regulations at 209 CMR 18.00 et seq.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,



Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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